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BERRY & ASSOCIATES P.C.
9255 SUNSET BOULEVARD
SUITE 810
LOS ANGELES, CA 90069

EXAMINER

ZHEN, LI B

ART UNIT PAPER NUMBER

2194

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/058,173

Applicant(s)

STEFANIK ET AL.

Examiner

Li B. Zhen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-61 and 70-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-61 and 70-76 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 46-61 and 70-76 are pending in the application.

Response to Amendments and Arguments

2. Applicant's arguments filed 05/21/2007 have been fully considered but they are not persuasive. In response to the Non-Final Office Action dated 02/21/2007, applicant amended to claims to recite the summary information comprising promotional information associated with the demarked file provided by the provider of the demarked file [claim 46, lines 10 – 11; claim 55, line 14; claim 70, line 8].

In the remarks submitted on 05/21/2007, applicant argues that the combination of Rodgers and Sears do not teach or suggest providing promotional information associated with the file provided from the provider of the information to be transferred to the second handheld computer system automatically [p. 8].

In response, examiner respectfully disagrees and submits that Sears discloses billing information, content and/or service provider ratings of applications and search path that read on “promotional information associated with said demarked file provided from the provider of said demarked file” [see rejection to claims 46, 55 and 70 below]. Examiner noted in the previous office action that the specification only refers to “promotional information” on p. 12, line 25 of the specification. The specification does not provide a specific definition or examples of promotional information. Therefore, the phrase “promotional information” is interpreted as any information that promotes or advertises the file to be transferred. Sears discloses providing billing info and content

and/or service provider rating of applications that can be used in selecting the best software for a user [pp. 2 - 3, paragraph 0019 and pp. 4 - 5, paragraph 0039]. The billing information and content and/or service provider ratings of applications are used to promote an application because the billing information includes the price of the application and the content and/or service provider ratings of applications inform the purchaser the popularity of the application according to the provider of the application. The price of the application is provided by the provider of the application. Thus, the billing information and content and/or service provider rating of the application are provided by the provider of the application [content and/or service provider] and are used to promote the application. Finally, Sears also teaches a search path provided by a service provider that provides search access to applications currently being promoted by the application's provider. The search path of Sears also meets the recited promotional information because the search path is provided by the provider of the application and provides access to promotional information. Therefore, Sears teaches multiple features that read on the recited "summary information comprising promotional information associated with said demarked file provided by the provider of said demarked file."

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 46-61 and 70-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0065732 to Rodgers et al. [hereinafter Rodgers] in view of U.S. Patent Application Publication No. 2002/0069263 to Sears et al. [hereinafter Sears], both references cited in the previous office action.

6. As to claim 46, Rodgers teaches the invention substantially as claimed a method of distributing software [content management application is also adapted to transmit a copy of itself to the PDA of consumer B upon instruction from consumer A; p. 3, paragraph 0028] between handheld computer systems [content may legitimately be passed directly from one consumer to another; p. 3, paragraph 0028], the method comprising:

demarking files [instructs the content management program running in PDA 90, via a graphical user interface on the screen 90S of the PDA to beam a copy] on a first handheld computer system by a first [consumer "A"] user [transmit a copy of a piece of content to another consumer using a PDA, consumer "A" instructs the content management program running in PDA 90, via a graphical user interface on the screen 90S of the PDA to beam a copy of a specified piece of content; p. 3, paragraph 0028], the demarking indicating that the demarked files [metadata 202 and the hash 204 for the content, and bundles both into a message 200; p. 3, paragraph 0028] are available for downloading by a second handheld computer system by a second [consumer B] user [consumer B is now able to consume the content transmitted from consumer A; p. 3, paragraph 0029];

automatically transferring the demarked files, from the first handheld computer system to the second handheld computer system [metadata 202 and the hash 204 for the content, and bundles both into a message 200 which is then transmitted via the wireless port 110 to the PDA 190 of a consumer B; p. 3, paragraph 0028].

Although Rodgers teaches the invention substantially, Rodgers does not specifically teach transferring summary information with respect to the demarked files when the first handheld computer system and the second handheld computer system are within a communication range according to a communication protocol, said summary information comprising promotional information associated with said demarked file provided by the provider of said demarked file.

However, Sears discloses transferring summary information [a server for disseminating information to users in a network may comprise: a tool, the tool for receiving information and for processing the information according to characteristics of the network, wherein the characteristics comprise characteristics of the users. the characteristics of the users may be selected from a group consisting of download history, log of frequently used applications, billing and subscription info, user ranking of applications, applications used in the past, and download history; pp. 2 - 3, paragraph 0019 and pp. 4 - 5, paragraphs 0038 and 0039] with respect to files to mobile devices [p. 3, paragraph 0022] when the mobile devices are within a communication range according to a communication protocol [p. 4, paragraph 0034], said summary information comprising promotional information [billing and subscription information, pp. 2 - 3, paragraph 0019; and content and/or service provider ratings of applications, pp. 4 - 5, paragraph 0039] associated with said demarked file [search path may be include applications currently being promoted by the application's provider; p. 6, paragraph 0043] provided by the provider of said demarked file [content and/or service provider ratings of applications, pp. 4 - 5, paragraph 0039].

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Rodgers to incorporate the features of transferring summary information with respect to the demarked files when the first handheld computer system and the second handheld computer system are within a communication range and the summary information comprising promotional information associated with the demarked file provided by the provider of said demarked file

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because this allows for seamless and optimized interactions to occur between users, devices, providers, and applications located in a network environment [p. 1, paragraph 0002 of Sears] and allows users and service providers to find applications based on a method that uses current applications they like as a key to find related applications or other highly rated applications [pp. 4 - 5, paragraph 0039 of Sears].

7. As to claim 55, Rodgers as modified teaches a handheld computer system [content management application is also adapted to transmit a copy of itself to the PDA of consumer B upon instruction from consumer A; p. 3, paragraph 0028 of Rodgers] comprising:

- a bus [pp. 3 – 4, paragraph 0033 of Sears];

- a processor coupled to the bus [Java native processor; pp. 3 – 4, paragraph 0033 of Sears];

- a wireless transceiver coupled to the bus for transferring information to other computer systems [PDA also has a wireless output 110, typically either Bluetooth or infra red, which enables messages to be beamed over short distances to other PDAs; p. 3, paragraph 0026 of Rodgers]; and

- a memory coupled to the bus [PDA 90 when it is to be stored in memory that does not already contain a copy of the content; p. 3, paragraph 0027 of Rodgers], wherein:

- the handheld computer system [PDA 90; p. 3, paragraph 0028 of Rodgers] is configured to:

store demarked files, the demarked files [instructs the content management program running in PDA 90, via a graphical user interface on the screen 90S of the PDA to beam a copy of Rodgers] being demarked by a first [consumer "A" of Rodgers] user [transmit a copy of a piece of content to another consumer using a PDA, consumer "A" instructs the content management program running in PDA 90, via a graphical user interface on the screen 90S of the PDA to beam a copy of a specified piece of content; p. 3, paragraph 0028 of Rodgers] and being available for downloading to a second handheld computer system by a second user [consumer B is now able to consume the content transmitted from consumer A; p. 3, paragraph 0029 of Rodgers], and

automatically transfer, to the second handheld computer system, summary information [a server for disseminating information to users in a network may comprise: a tool, the tool for receiving information and for processing the information according to characteristics of the network, wherein the characteristics comprise characteristics of the users. the characteristics of the users may be selected from a group consisting of download history, log of frequently used applications, billing and subscription info, user ranking of applications, applications used in the past, and download history; pp. 2 - 3, paragraph 0019 and pp. 4 - 5, paragraphs 0038 and 0039 of Sears] with respect to the demarked files [p. 3, paragraph 0022 of Sears] when the second handheld computer system is within a communication range [metadata 202 and the hash 204 for the content, and bundles both into a message 200 which is then transmitted via the wireless port 110 to the PDA 190 of a consumer B; p. 3, paragraph 0028 of Rodgers] of the handheld computer system according to a communication protocol [p. 4, paragraph

0034 of Sears], said summary information comprising promotional information [pp. 2 - 3, paragraph 0019 and pp. 4 – 5, paragraph 0039 of Sears] associated with said demarked file [p. 6, paragraph 0043 of Sears] provided by the provider of said demarked file [content and/or service provider ratings of applications, pp. 4 – 5, paragraph 0039 of Sears]. As to the motivation for combining Rodgers with Sears, see the rejection to claim 46 above.

8. As to claim 70, Rodgers as modified teaches a handheld computer system [content management application is also adapted to transmit a copy of itself to the PDA of consumer B upon instruction from consumer A; p. 3, paragraph 0028 of Rodgers] comprising:

means for storing demarked files, the demarked files [instructs the content management program running in PDA 90, via a graphical user interface on the screen 90S of the PDA to beam a copy of Rodgers] being demarked by a first [consumer "A" of Rodgers] user [transmit a copy of a piece of content to another consumer using a PDA, consumer "A" instructs the content management program running in PDA 90, via a graphical user interface on the screen 90S of the PDA to beam a copy of a specified piece of content; p. 3, paragraph 0028 of Rodgers] and being available for downloading to a second handheld computer system by a second [consumer B of Rodgers] user [consumer B is now able to consume the content transmitted from consumer A; p. 3, paragraph 0029 of Rodgers], and means for automatically transferring, to the second handheld computer system, summary information [a server for disseminating

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information to users in a network may comprise: a tool, the tool for receiving information and for processing the information according to characteristics of the network, wherein the characteristics comprise characteristics of the users. the characteristics of the users may be selected from a group consisting of download history, log of frequently used applications, billing and subscription info, user ranking of applications, applications used in the past, and download history; pp. 2 - 3, paragraph 0019 and pp. 4 - 5, paragraphs 0038 and 0039 of Sears] with respect to the demarked files [p. 3, paragraph 0022 of Sears] when the second handheld computer system is within a communication range [metadata 202 and the hash 204 for the content, and bundles both into a message 200 which is then transmitted via the wireless port 110 to the PDA 190 of a consumer B; p. 3, paragraph 0028 of Rodgers] of the handheld computer system according to a communication protocol [p. 4, paragraph 0034 of Sears], said summary information comprising promotional information [pp. 2 - 3, paragraph 0019 and pp. 4 - 5, paragraph 0039 of Sears] associated with said demarked file [p. 6, paragraph 0043 of Sears] provided by the provider of said demarked file [content and/or service provider ratings of applications, pp. 4 - 5, paragraph 0039 of Sears]. As to the motivation for combining Rodgers with Sears, see the rejection to claim 46 above.

9. As to claim 47, Rodgers as modified teaches the communication protocol is a wireless communication protocol [p. 3, paragraph 0032 of Sears].

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10. As to claim 48, Rodgers as modified teaches the wireless communication protocol includes infrared light signaling [PDA also has a wireless output 110, typically either Bluetooth or infra red, which enables messages to be beamed over short distances to other PDAs; p. 3, paragraph 0026 of Rodgers].

11. As to claim 49, Rodgers as modified teaches communications between the first handheld computer system and the second handheld computer system are direct [p. 3, paragraphs 0026 and 0029 of Rodgers].

12. As to claim 50, Rodgers as modified teaches displaying at least a portion of the transferred summary information at the second handheld computer system [p. 4, paragraph 0038 of Sears]; and selecting, via a user interface [user interface on device 140, p. 5 – 6, paragraph 0042 of Sears], at least a subset of the demarked tiles from the displayed portion of the transferred summary information at the second handheld computer system [requested applications, p. 5 – 6, paragraph 0042 of Sears].

13. As to claim 51, Rodgers as modified teaches the selecting via the user interface further comprises touching an area of a display screen of the second handheld computer system [user interface capabilities and related APIs; text, touch, biometrics, speech recognition, handwriting recognition; p. 4, paragraph 0038 of Sears].

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14. As to claim 52, Rodgers as modified teaches receiving, at the second handheld computer system, a download of the selected ones of the demarked files from the first handheld computer system in response to the selecting via the user interface at the second handheld computer system [p. 3, paragraph 0028 of Rodgers and pp. 4 – 5, paragraph 0039 of Sears].

15. As to claim 53, Rodgers as modified teaches at least some of the selected ones of the demarked files are executable files to be executed at the second handheld computer system [content management application is also adapted to transmit a copy of itself to the PDA of consumer B upon instruction from consumer A; p. 3, paragraph 0028 of Rodgers and pp. 4 – 5, paragraph 0039 of Sears].

16. As to claim 54, Rodgers as modified teaches the executable files include one or more application files that have limited functionality or limited time of use [indicative of a time-limited licence, or licences that prevent sharing with peers may be provided, p. 2, paragraph 0022 of Rodgers and p. 4, paragraph 0038 of Sears].

17. As to claim 56, Rodgers as modified teaches the communication protocol is a wireless communication protocol [p. 3, paragraph 0032 of Sears].

18. As to claim 57, Rodgers as modified teaches the wireless communication protocol includes infrared light signaling [p. 3, paragraph 0026 of Rodgers].

19. As to claim 58, Rodgers as modified teaches the handheld computer system is configured to communicate directly with the second handheld computer system [p. 3, paragraphs 0026 and 0029 of Rodgers].

20. As to claim 59, Rodgers as modified teaches the handheld computer system is configured to download selected ones of the demarked files to the second handheld computer system in response to receiving a download request from the second handheld computer system [pp. 4 – 5, paragraph 0039 of Sears].

21. As to claim 60, Rodgers as modified teaches at least some of the selected ones of the demarked files are executable files to be executed at the second handheld computer system [content management application is also adapted to transmit a copy of itself to the PDA of consumer B upon instruction from consumer A; p. 3, paragraph 0028 of Rodgers and pp. 4 – 5, paragraph 0039 of Sears].

22. As to claim 61, Rodgers as modified teaches the executable files include one or more application files that have limited functionality or limited time of use [indicative of a time-limited licence, or licences that prevent sharing with peers may be provided, p. 2, paragraph 0022 of Rodgers and p. 4, paragraph 0038 of Sears].

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23. As to claim 71, Rodgers as modified teaches the communication protocol is a wireless communication protocol [p. 3, paragraph 0032 of Sears].

24. As to claim 72, Rodgers as modified teaches the wireless communication protocol includes infrared light signaling [p. 3, paragraph 0026 of Rodgers].

25. As to claim 73, Rodgers as modified teaches means for communicating directly with the second handheld computer system [p. 3, paragraphs 0026 and 0029 of Rodgers].

26. As to claim 74, Rodgers as modified teaches means for downloading selected ones of the demarked files to the second handheld computer system in response to receiving a download request from the second handheld computer system [pp. 4 – 5, paragraph 0039 of Sears].

27. As to claim 75, Rodgers as modified teaches at least some of the selected ones of the demarked files to be downloaded by the means for downloading selected ones of the demarked files are executable files to be executed at the second handheld computer system [content management application is also adapted to transmit a copy of itself to the PDA of consumer B upon instruction from consumer A; p. 3, paragraph 0028 of Rodgers and pp. 4 – 5, paragraph 0039 of Sears].

28. As to claim 76, Rodgers as modified teaches executable files include one or more application files that have limited functionality or limited time of use [indicative of a time-limited licence, or licences that prevent sharing with peers may be provided, p. 2, paragraph 0022 of Rodgers and p. 4, paragraph 0038 of Sears].

Conclusion

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

CONTACT INFORMATION

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Li B. Zhen whose telephone number is (571) 272-3768. The examiner can normally be reached on Mon - Fri, 8:30am - 5pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Thomson can be reached on 571-272-3718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Li B. Zhen
Examiner
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LBZ



6/27/2007